

SIGNED.

Dated: May 22, 2017




Paul Sala, Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA

In re

JIMMY GONZALEZ,

Debtor(s).

Chapter 13

Case No. 2:16-bk-06628 PS

**STIPULATED ORDER CONFIRMING
AMENDED CHAPTER 13 PLAN**

The Amended Chapter 13 Plan having been properly noticed out to creditors and any objection to confirmation having been resolved,

IT IS ORDERED confirming the Amended Plan of the Debtor(s) as follows:

(A) **INCOME SUBMITTED TO THE PLAN.** Debtor(s) shall submit the following amounts of future income to the Trustee for distribution under the Plan.

(1) Future Earnings or Income. Debtor(s) shall make the following monthly Plan payments:

| <u>Months</u> | <u>Amount</u> |
|---------------|---------------|
| 1-54 | \$140.00 |

In re Gonzalez, Jimmy
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The payments are due on or before the 10th day of each month commencing July, 2016. Debtor(s) is/are advised that when payments are remitted late, additional interest may accrue on secured debts, which may result in a funding shortfall at the end of the Plan term. Any funding shortfall must be cured before the plan is deemed completed.

The Debtor(s) shall provide, directly to the Trustee copies of their **federal** and **state** income tax returns for post-petition years 2016 - 2019 within 30 days of filing them. The purpose is to assist the Trustee in determining any change in debtor's annual disposable income.

- (2) Other Property. The Debtor(s) shall provide, directly to the Trustee their net federal and state income tax refunds, for any amount that exceeds the \$8,499.96/yr that is necessary for living expenses, for the years 2016 – 2019, as supplemental payments to the plan. In the event that other property is submitted, it shall be treated as supplemental payments.

(B) **DURATION**. This Plan shall continue for **54 months** from the first regular monthly payment described in Paragraph (A)(1) above. If at any time before the end of the Plan period all claims are paid, then the Plan shall terminate. In no event will the term of the Plan be reduced to less than 36 months, exclusive of any property recovered by the Trustee, unless all allowed claims are paid in full.

(C) **CLASSIFICATION AND TREATMENT OF CLAIMS**. Claims shall be classified as listed below. The Plan and this Order shall not constitute an informal proof of claim for any creditor. This Order does not allow claims. Claims allowance is determined by § 502 and Federal Rules of Bankruptcy Procedure. The Trustee shall receive the percentage fee on the Plan payments pursuant to 28 U.S.C. § 586(e), then the Trustee will pay creditors in the following order:

(1) Administrative expenses:

Attorney Fees. Haines Meyer, shall be allowed total compensation of \$4,500.00. Counsel received \$0.00 prior to filing this case and will be paid \$4,500.00 by the Chapter 13 Trustee.

(2) Claims Secured by Real Property:

(a) Nationstar Mortgage LLC., secured by first deed of trust in the Debtor's residence, shall be paid the prepetition arrearage of \$2,235.34 with 0.00% interest. Regular post-petition payments will be made directly by the Debtor(s) to the secured creditor.

(b) Debtor's second position Deed of Trust with Rancho Gabriela HOA is wholly unsecured and its lien shall be avoided/stripped from the Debtor's Residence pursuant to 11 U.S.C., Section 1322(b)(2) and 328(a). See *In Re Wegscheide* 316 B.R. 144 (Bkrtcy.D.Ariz.,2007). A separate formal Motion to Determine Secured Status shall be filed to ensure that upon completion of the plan and entry of Discharge, Rancho Gabriela HOA will release its second position Deed of Trust and said loan shall be deemed satisfied regardless of any Proof of Claim filed by Rancho Gabriela HOA. See *Stipulation of Avoidance (Docket #46)*

(3) Claims Secured by Personal Property:

(a) American Honda Finance Corp, secured by a lien on a 2012 Honda Accord, shall be paid directly by the third party owner (Father of Debtor) outside the Plan.

(4) Unsecured Priority Claims: None

(5) Surrendered Property. Upon confirmation of this plan or except as otherwise ordered by the Court, bankruptcy stays are lifted as to collateral to be surrendered. Such creditor shall receive no distribution until the creditor timely files a claim or an amended proof of claim that reflects any deficiency balance remaining on the claim. Assuming the creditor has an allowed proof of claim, should the creditor fail to file an amended claim consistent with this provision, the Trustee need not make any distributions to that creditor. Debtor surrenders the following property:

(a) 10YG Diamond Neckware and 14YG 20" Necklace to which Sterling Jewelers/Kay Jewelers holds a security interest



(6) Other Provisions: Should the Motion to Determine be unsuccessful, this Order will be amended to provide for payment of the arrears.

(7) Unsecured Nonpriority Claims: Claims allowance is determined by § 502 and the Federal Rules of Bankruptcy Procedure. Allowed unsecured claims shall be paid pro rata the balance of the payments under the Plan and any unsecured debt balance remaining unpaid upon completion of the Plan may be discharged as provided in 11 U.S.C. § 1328.

(D) **EFFECTIVE DATE AND VESTING.** The effective date of the Plan shall be the date of this Order. Property of the estate vests in Debtor(s) upon confirmation, subject to the rights of the Trustee to assert a claim to any additional property of the estate pursuant to 11 U.S.C. § 1306.

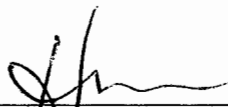
ORDER SIGNED ABOVE

Approved as to Form and Content By:

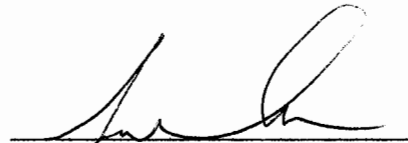
  Russell Brown
2017.05.22
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Russell Brown, Trustee


Attorney for Rancho Gabriela HOA


Haines Meyer, Esq.
Attorney for Debtor(s)

The Debtor certifies: All required State and Federal income tax returns have been filed. No domestic support obligation is owed or, if owed, such payments are current since the filing of the Petition.


Jimmy Gonzalez